

YOUTH SERVICES POLICY

Title: Access to and Release of Active and Inactive Youth Records Next Annual Review Date: 07/22/2010	Type: B. Classification, Sentencing and Service Functions Sub Type: 3. Records Number: B.3.2
	Page 1 of 7
References: ACA Standards 2-CO-1E- 01, 2-CO-1E-06, 2-CO-1E-07, 2-CO-1E-08 (Administration of Correctional Agencies), 4-JCF-6F-01 (Performance-Based Standards for Juvenile Correctional Facilities), 2-7070 (Juvenile Probation and Aftercare Services); YS Policies A.3.3 "Collection of Fees for Reproduction of Public Records"; B.6.1 "Health Care" - DPS&C/LSUHSC JCP Policy J/HC-RT 02-02 "Disclosure of Medical Record Information" and J/HC-RT 05-02 "Confidentiality of Health Records and Health Information", C.1.5 "Research" and C.1.7 "Crime Victims Notification"; DYS Policy 5.1 "Case Records"; La. R.S. 15:574.12, La. R.S. 15:840.1, La. R.S. 15:909, La. R.S. 39:241; Ch.C. Art. 412; C.Cr.P Art. 875	
Approved By: Mary L. Livers, Deputy Secretary	Date of Approval: 07/22/2009

I. AUTHORITY:

Deputy Secretary of Youth Services as contained in La. R.S. 36:405. Deviation from this policy must be approved by the Deputy Secretary.

II. PURPOSE:

To establish the Deputy Secretary's policy for the access to and release of active and inactive youth records.

III. APPLICABILITY:

This policy applies to all persons employed by Youth Services (YS) and those under contract to YS. The Deputy Secretary, Undersecretary, Deputy Undersecretary, Deputy Assistant Secretaries, Facility Directors, and Regional Managers are responsible for implementing this policy and conveying its contents to all affected persons.

IV. DEFINITION:

Law Enforcement Agencies - those agencies designed to enforce Federal, State or municipal laws and who receive public funds as their primary source for operation, i.e. sheriffs' offices, local and state police departments, departments of corrections, state attorney generals, U.S. attorneys, district attorneys, and the Federal Bureau of Investigation.

V. RELEASE OF INFORMATION AND RECORDS:

- A. All information obtained on a youth shall be confidential and shall not be subject to public inspection or be disclosed directly or indirectly to anyone except in accordance with this policy. None of the provisions contained herein are intended to restrict the ability of YS to provide any contract facility with full and complete information on any youth housed therein.
- B. Generally, written consent by the youth, parent or guardian or attorney of record is required before a person may be granted access to the youth's case files. Access includes viewing the record and receiving copies of documents from a youth's record.
- C. Release of initial documents to attorney (initial contact-no attorney client relationship yet):

Upon receipt of a completed written consent form executed by the youth [Attachment B.3.2 (a)], the facility may provide copies of the following information to an attorney who has met with the youth and requested information:

- 1. JETS Master;
- 2. Disciplinary reports for the quarter;
- 3. Court documents;
- 4. Time computation worksheet;
- 5. Custody classification/reclassification for the preceding two quarters;
- 6. A listing of programs completed, including substance abuse education. **However, no acknowledgment of the youth's substance (alcohol/drug) abuse treatment may be given.**

- D. Release of records upon establishment of attorney client relationship:

An attorney client relationship sufficient to allow release of a youth's record is established upon the occurrence of the following:

- 1. Youth age 18 and older

Receipt of a written consent form executed by the youth [Attachment B.3.2 (b)] of his intent to be represented by the attorney named therein.

2. Youth under age 18
 - a. In order to release information from the record of a youth, the facility shall require receipt of a written consent form [Attachment B.3.2 (c)] executed by the parent/guardian of the youth;
 - b. **OR**, alternatively, release may also be accomplished through the occurrence of all of the following:
 - i. Youth has affirmed his intent through execution of a written document to enter into an attorney client relationship with a particular attorney or law firm and a release form is executed by the youth which allows general access by the attorney to the youth's record [Attachment B.3.2 (b)]. Additionally, if the youth intends to allow release of records pertaining to education, substance abuse treatment or HIV/AIDS status, the youth must execute a specific confidentiality waiver for each individual category of documents;
 - ii. Receipt by the facility of a copy of a letter from the attorney notifying the youth's parent/guardian that the youth requested the attorney's representation. The letter must contain language directing the parent/guardian to notify the facility or the court of jurisdiction, should the parent/guardian object to the representation and/or access to records;
 - iii. Receipt of postal "Proof of Mailing" verifying that the letter in Section V.D.2.b.i. above has been mailed to the parent/guardian;
 - iv. Receipt of a written statement made by the attorney attesting that he/she has made efforts to contact the parent/guardian; and
 - v. At least ten business days have elapsed since receipt by the facility of all documents listed in Section V.D.2.b.i. through iv. above, **AND** the parent/guardian has not voiced an objection.

Once the attorney client relationship is established whether through a consent form executed by the parent/guardian or through the provision of documents required in Section V.D.2.b.i. through v. above, the documents shall be filed in the youth's case file at clip 8.

Establishment of the attorney client relationship shall also be entered in JETS.

- E. Information on a particular youth may be released without special authorization, subject to other restrictions that may be imposed by federal law or by other provisions of state law, to the following:
 - 1. Board of Pardons;
 - 2. Governor;
 - 3. Sentencing Judge;
 - 4. Counsel for a youth in a delinquency matter;
 - 5. District Attorneys;
 - 6. Law enforcement agencies;
 - 7. Department of Public Safety and Corrections personnel, including legal representatives and law students;
 - 8. Appropriate governmental agencies or public officials, when access to such information is imperative for the discharge of the responsibilities of the requesting agency, official or court officer and the information if not reasonably available through any other means; and
 - 9. Court officers with court orders specifying the information requested.
- F. Fingerprints, photographs, and information pertaining to arrests and disposition of delinquent offenses, as well as information regarding escapes, may be released to law enforcement agencies without special authorization.
- G. The Deputy Secretary or his/her designee may approve the reading of information to the following:
 - 1. Social Services agencies assisting in the treatment of the youth;
 - 2. Appropriate governmental agencies or officials;
 - 3. Approved researchers who have guaranteed in writing anonymity of all subjects. (Refer to YS Policy C.1.5 "Research" for further information.)
- H. The Deputy Secretary or his/her designee may approve selective reading (but not copying) of information by a private citizen or organization aiding in the rehabilitation of, or being directly involved in the hiring of, the youth under the following conditions, when:
 - 1. It appears that the withholding of the information would be to the youth's disadvantage;
 - 2. The requested information is necessary to further the rehabilitation or the likelihood of hiring the youth;

3. The requested information is not reasonably available through other means;
4. The youth or his parent or guardian has given written consent for the release of information.

VI. RELEASE OF INFORMATION TO CRIME VICTIMS:

- A. Both the information contained in a Victim/Witness Notification Form and the fact that a notification request has been made are confidential. Any questions from outside of YS about whether particular persons have requested notification or whether there has been a notification request for a particular youth should be referred to the Crime Victims Services Bureau.
- B. Information may be released to victims and/or witnesses, under the state's authority in accordance with YS Policy C.1.7 "Crime Victims Services Bureau."

VII. SUBPOENAED RECORDS:

- A. Whenever the records of a youth are subpoenaed, they shall be submitted to the appropriate court for a ruling as to whether the information should be turned over to the party who caused the subpoena to be issued. The court shall make this determination "in camera". If the court makes any one of the following determinations, the information shall be withheld:
 1. The information is not relevant to the proceedings; or
 2. The information was derived from communications which were obviously made in the confidence that they would not be disclosed; or
 3. The confidentiality is essential to the future useful relations between the source and the recorder of the information.
- B. Should the court authorize disclosure of the records in accordance with the subpoena, the party who caused the subpoena to be issued shall pay a fee for the cost of production of the records in accordance with La. R.S. 39:241 and YS Policy A.3.3 "Collection of Fees for Reproduction of Public Records", unless the court determines that the party has been granted pauper status in accordance with law.

VIII. RECORDS NOT SUBPOENAED SUBMITTED TO THE COURTS FOR REVIEW:

YS reserves the right to submit any record to the appropriate court for a ruling as to whether the information should be turned over to the party requesting information.

IX. ACCESS TO AND RELEASE OF MEDICAL RECORDS:

Refer to YS Policy No. B.6.1 "Health Care" and LSUHSC JCP Policies J/HC-RT 02-01 and 05-01 for specifics governing access to and release of medical records.

X. YS ACCESS TO INFORMATION AND RECORDS OF OTHER AGENCIES:

During the course of any investigation which YS is authorized by law to conduct, or which is necessary for the rehabilitation of youth in the custody or under the supervision of YS, YS shall have access to information and records under the control of any state or local agency which is reasonably related to the rehabilitation of the youth.

XI. YOUTH ACCESS TO RECORDS:

Information contained in the youth's record shall be confidential and shall not be released to him except in accordance with the following:

- A. A youth may, upon request, have access to his JETS Master; a time computation worksheet; any court documents that are related to the youth's secure care placement; disciplinary reports; custody classification/reclassification and case plan.
- B. A youth shall not have access to another youth's record.
- C. The following list includes, but is not limited to, additional information which will not be accessible to youth:
 - 1. Disposition Reports;
 - 2. Social history;
 - 3. Information revealing or tending to reveal the identity of a confidential informant;
 - 4. Unusual Occurrence Reports;
 - 5. Admission Summary;
 - 6. Correspondence from any non-corrections source directed solely to facility officials;
 - 7. Correspondence or inquiries originated by facility personnel;
 - 8. Investigations conducted by non-departmental agencies (District Attorney, State Police, FBI, etc.);
 - 9. Progress Notes;
 - 10. Progress Reports to the court;
 - 11. Investigations conducted by YS Central Office; and
 - 12. Non-disciplinary court-related facility investigations.

- D. Each facility shall establish procedures for youth to follow when requesting copies of documents from their records and the fees charged for such copies.

XII. INFORMATION REQUESTS:

Verbal requests to YS for information may be acceptable. However, the Deputy Secretary or his/her designee reserves the right to require a written request before releasing any information. In that case, the individual or agency must certify in writing that they will not release the information to any other agency or individual.

XIII. FEES:

The fee schedule for copies of public records is established in YS Policy No. A.3.3 "Collection of Fees for Reproduction of Public Records."

Previous Regulation/Policy Number: B-03-003 / B.3.2

Previous Effective Date: 01/20/2004



Attachments/References: B.3.2 (a) CONSENT FOR RELEASE - July 2009.doc



B.3.2 (b) STATEMENT OF REPRESENTATION - July 2009.doc



B.3.2 (c) Parent Guardian Consent - July 2009.doc